

ORDINANCE NO. 90-13

AN ORDINANCE of the Board of County Commissioners of Palm Beach County, Florida, to be entitled "Palm Beach County Recycled Paper Product Procurement Ordinance"; setting forth a purpose; providing for policies to encourage and increase the procurement of recycled and recyclable paper products by the Board of County Commissioners; providing for definitions; providing for requirements for Purchasing Contracts; providing for rules and regulations for procurement of paper and paper products; providing for an annual report; providing for reporting requirements by County departments; providing for responsibilities for the Purchasing Department; providing for exemptions; providing for severability; inclusion in the Code of Laws and Ordinances; an effective date.

WHEREAS, Palm Beach County wishes to promote the use of recycled paper products in an effort to stimulate the demand for such products and to divert paper products from the solid waste stream; and

WHEREAS, the County also wishes to discourage the use of paper products which are not recyclable; and

WHEREAS, the Board of County Commissioners finds and determines that adopting preferential procurement programs requiring the use of such products will increase the overall demand for recycled and recyclable paper products; and

WHEREAS, the Board of County Commissioners wishes to establish a preferential procurement policy which will encourage and promote the use of recycled and recyclable paper products by County departments, agencies and contractors.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

SECTION 1. Short Title. This ordinance shall be known and may be cited as the "Palm Beach County Recycled Paper Product Procurement Ordinance".

SECTION 2. Purpose. The purpose of this Ordinance is to promote market development of recycled paper products and to discourage the use of non-recyclable paper products by establishing preferential procurement programs applicable to all County departments, agencies and the contractors doing business with the County.

1 SECTION 3. Policies.

2 A. All County departments shall use recycled and
3 recyclable paper products to meet their needs whenever
4 practicable and subject to market availability .

5 B. The County shall require its contractors and
6 consultants to use recycled and recyclable paper products in
7 fulfilling contractual obligations to the County subject to
8 the provisions of Sections 5 and 6 of this Ordinance.

9 C. In procuring paper products pursuant to this
10 ordinance, the County shall require recovered material and/or
11 post-consumer material content to be considered as factors in
12 determining the lowest responsive and responsible bid in any
13 competitive bidding procurement process.

14 D. The County shall promote the use of recycled and
15 recyclable paper products by publicizing its procurement
16 program and by disseminating information about recycled
17 products.

18 SECTION 4. Definitions. The following terms shall have
19 the assigned definitions for all purposes under this
20 ordinance:

21 A. "Contractor" means any person, group of persons,
22 consultant, designing architect, association, partnership,
23 corporation, or other type of business entity which has a
24 contract with the County (including suppliers) or which serves
25 in a subcontracting capacity with an entity having a contract
26 with the County for the provision of goods and/or services.

27 B. "Departments" shall refer to any department under
28 the direction of the Board of County Commissioners of Palm
29 Beach County, Florida and the Supervisor of Elections; other
30 County agencies and Constitutional Offices may voluntarily
31 elect to participate in this program.

32 C. "End use" means an intended final use of a product
33 by a consumer which will not result in additional value being
34 added to the product.
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1 D. "Goal" means a quantitatively expressed objective
2 which the County through its departments makes good-faith
3 efforts to achieve.

4 E. "Minimum content standards" means standards set by
5 the County specifying the minimum level of recovered material
6 and/or post-consumer material necessary for designated
7 products to qualify as recycled products.

8 F. "Paper and paper products" means all items
9 manufactured from paper or paperboard.

10 G. "Post-consumer material" means only those products
11 generated by a business or consumer which have served their
12 intended end uses, and which have been separated or diverted
13 from the solid waste stream for the purposes of collection,
14 recycling and disposition.

15 H. "Post-consumer paper material" means:

16 1. Paper, paperboard and fibrous wastes including
17 corrugated boxes, newspapers, magazines, mixed waste paper,
18 tabulating cards and used cordage from places like retail
19 stores, office buildings and homes after the point at which
20 they have passed through their end use as consumer items; and

21 2. All paper, paperboard and fibrous wastes that
22 enter and are collected as mixed municipal solid waste.

23 I. "Procurement contract" means any contract which is
24 awarded by the County for the purchase of tangible goods.

25 J. "Recovered paper material" means paper waste
26 generated after the completion of a papermaking process, such
27 as post-consumer material, envelope cuttings, bindery
28 trimmings, printing waste, cutting and other converting waste,
29 butt rolls, and mill wrappers, obsolete inventories, and
30 rejected unused stock. Recovered paper material, however,
31 shall not include fibrous waste generated during the
32 manufacturing process such as fibers recovered from waste
33 water or trimmings of paper machine rolls (mill broke), or
34 fibrous by-products of harvesting, extractive or woodcutting
35 processes, or forest residue such as bark.

1 K. "Recyclable paper product" means a paper product
2 which, after its intended end use, can demonstrably and
3 economically be diverted from the Palm Beach County solid
4 waste stream for use as a raw material in the manufacture of
5 another product.

6 L. "Recycled Paper Product" means a paper product which
7 contains recovered paper material as defined herein.

8 SECTION 5. Requirements for Purchasing Contracts.

9 A. Invitations to bid or request for proposals issued
10 by the County for the purchase of paper products shall contain
11 no terms, requirements and/or specifications prohibiting or
12 discouraging post-consumer or recovered material content,
13 unless a user department provides the Director of Purchasing
14 with satisfactory evidence that, for technical reasons and for
15 a particular end use, a product containing such materials will
16 not meet reasonable performance standards.

17 B. In determining the lowest responsive and responsible
18 bid for the purchase of paper products pursuant to invitations
19 to bid issued, the Director of Purchasing shall use the
20 procedures and evaluation criteria specified in this
21 ordinance. If the lowest offered price for a recycled paper
22 product is not more than the specified percentage higher than
23 the lowest offered price for the same paper product that is
24 not recycled, the offered price for the recycled paper product
25 shall be considered the low bid if such bidder is otherwise
26 responsive and responsible. However, nothing contained in
27 this ordinance shall preclude user departments from requiring
28 post-consumer or recovered material content as a specification
29 in invitations to bid for paper products.

30 C. Each contractor supplying the County with recycled
31 paper products pursuant to an invitation to bid or request for
32 proposal process initiated after April 30, 1990 shall provide
33 certifications acceptable to the County from all product
34 manufacturers that the products being supplied meet or surpass
35

1 County minimum content standards and shall agree to reasonable
2 verification procedures specified by the Director of
3 Purchasing.

4 SECTION 6. Rules and Regulations for Procurement of
5 Paper and Paper Products.

6 A. Palm Beach County's recycled paper procurement goal
7 for user departments (expressed as a percentage of the total
8 volume of paper purchased) shall be: not less than forty
9 percent by December 31, 1990; not less than fifty percent by
10 1993. Each department shall be responsible for making its
11 best effort to meet or surpass these goals.

12 B. The Director of Purchasing shall adopt minimum
13 content standards for recycled paper products. The minimum
14 content standards shall, at a minimum, be consistent with
15 standards promulgated by the United States Environmental
16 Protection Agency and found in 40 CFR Part 250.21, unless it
17 can be determined that a different standard would
18 significantly increase recycled product availability or
19 competition or would increase recycled content without
20 adversely affecting availability.

21 C. The Director of Purchasing shall use a percentage
22 factor of ten percent in the process of determining the lowest
23 responsive and responsible bidder for paper and paper
24 products.

25 D. Departments shall publicize the County's use of
26 recycled paper by printing the words "Printed on Recycled
27 Paper" and/or a recycling logo on all letterhead paper and on
28 the title page of all reports printed on recycled paper.

29 E. To reduce the volume of paper purchased, departments
30 shall use both sides of paper sheets whenever practicable.

31 F. Requests for proposal or qualifications issued by
32 the County shall require all proposed contractors or
33 consultants submitting proposals to agree to the following as
34 a precondition to contract award:
35

1 1. All reports submitted to the County by a
2 contractor in fulfillment of contract obligations shall use
3 recycled paper when it is available at a reasonable price and
4 of satisfactory quality to meet contractual performance
5 standards. For purposes of this paragraph, the price of
6 recycled paper shall be considered "reasonable" if its cost
7 is no more than 10% higher than the lowest price offered for
8 non-recycled paper.

9 2. Reports submitted to the County by contractors
10 shall use both sides of paper sheets whenever practicable.

11 3. Contractors shall be responsible for
12 maintaining records documenting usage of recycled paper for
13 reports submitted to the County in fulfillment of contractual
14 obligations. Contractors shall submit such records to the
15 County, according to procedures to be established by the
16 Director of Purchasing October 1, 1990.

17 SECTION 7. Annual Report. The Purchasing Department
18 shall submit to the Board of County Commissioners for each
19 fiscal year beginning December 31, 1990, a report evaluating
20 the procurement program, including the following components:

21 A. Quantities of designated products purchased by
22 departments;

23 B. Quantities and types of recycled products purchased;

24 C. Prices and relative quantities purchased of recycled
25 and non-recycled designated products;

26 D. A determination as to whether minimum content
27 standards should be changed or remain the same;

28 E. A summary of program promotional efforts;

29 F. An assessment of the effectiveness of the
30 procurement program and an evaluation of program goals; and

31 G. Recommendations for changes in procurement policy,
32 including designation of additional products.

1 SECTION 8. Responsibilities and Reporting Requirements
2 of Departments. All user departments are responsible for:

3 A. Purchasing and using recycled products whenever
4 practicable;

5 B. Documenting any technical problems that preclude the
6 use of recycled products;

7 C. Providing written explanations to the Director of
8 Purchasing for not purchasing recycled products;

9 D. Reviewing specifications and recommending revisions
10 as necessary to allow procurement of products containing
11 recycled material to the maximum extent practicable.
12 Performance standards that are more stringent than necessary
13 should be reviewed and revised.

14 E. Conducting comparative tests of the performance of
15 recycled products and non-recycled products, as specified by
16 the Purchasing Department;

17 F. Transmitting to contractors, upon their request,
18 recycled product and vendor lists prepared by the Purchasing
19 Department;

20 G. Collecting information from contractors about their
21 designated product purchases before contract expiration dates
22 according to procedures established by the Purchasing
23 Department;

24 H. Informing the Purchasing Department of potential
25 uses of recycled products by contractors.

26 SECTION 9. Responsibilities of the Purchasing
27 Department. The Purchasing Department is responsible for:

28 A. Revising or amending standard bid documents and
29 contract language where necessary to implement this ordinance.

30 B. Collecting data on purchases by departments of
31 designated products on County purchase orders;

32 C. Preparing bid invitations for recycled products;

33 D. Maintaining a directory of recycled products and
34 local vendors;

1 E. Disseminating recycled product information to
2 departments;

3 SECTION 10. Exemptions. Nothing in this ordinance shall
4 be construed as requiring a department or contractor to
5 procure products that do not perform adequately for their
6 intended end use or are not available at a reasonable price
7 in a reasonable period of time.

8 SECTION 11. Repeal of Laws in Conflict. All local laws
9 and ordinances applying to the unincorporated and incorporated
10 areas of Palm Beach County in conflict with any provisions of
11 this Ordinance are hereby repealed to the extent of the
12 conflict.

13 SECTION 12. Severability. If any section, paragraph,
14 sentence, clause, phrase, or word of this Ordinance is for any
15 reason held by the Court to be unconstitutional, inoperative
16 or void, such holding shall not affect the remainder of this
17 Ordinance.

18 SECTION 13. Inclusion in the Code of Laws and
19 Ordinances. The provisions of this Ordinance shall become and
20 be made a part of the code of laws and ordinances of Palm
21 Beach County, Florida. The Sections of the Ordinance may be
22 renumbered or relettered to accomplish such, and the word
23 "ordinance" may be changed to "section", "article", or any
24 other appropriate word.

25 SECTION 14. Effective Date. The provisions of this
26 Ordinance shall become effective upon receipt of
27 acknowledgement by the Secretary of State.

28 APPROVED AND ADOPTED by the Board of County Commissioners
29 of Palm Beach County, Florida, on the 17th day of April,
30 19 90.

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By *Carl Elliott*
Chairman

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Maurice Cullen
County Attorney

JOHN B. DUNKLE, CLERK
Board of County Commissioners
By *Judith Croshaw*
DEPUTY CLERK

Acknowledgement by the Department of State of the State
of Florida, on this, the 27th day of April, 1990.

EFFECTIVE DATE: Acknowledgement from the Department of
State received on the 3rd day of May, 1990,
at 9:54 A.M. and filed in the Office of the Clerk of the Board
of County Commissioners of Palm Beach County, Florida.

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, JOHN B. DUNKLE, Clerk of the
Board of County Commissioners, do hereby
be a true and correct copy of the original filed
my office on 4-17-90
DATED at West Palm Beach, FL on 5-9-90
JOHN B. DUNKLE, Clerk
By: *Judith Croshaw* Deputy Clerk